

**SERIAL 09058 SS      LYNDSOE EQUIPMENT AND MAINTENANCE-LIBRARY DISTRICT**

**DATE OF LAST REVISION: October 01, 2009      CONTRACT END DATE: September 30, 2014**

**CONTRACT PERIOD BEGINNING OCTOBER 01, 2009  
ENDING SEPTEMBER 30, 2014**

TO:                      All Departments

FROM:                  Department of Materials Management

SUBJECT:              Contract for **LYNDSOE EQUIPMENT AND MAINTENANCE-LIBRARY  
DISTRICT**

Attached to this letter is a listing of vendors available to Maricopa County Agencies utilizing the Library District Contract C-65-10-006-3-00. The using agency and other interested parties may access and electronic version of this contract from the Materials Management Web site at:  
[http://www.maricopa.gov/materials/Awarded\\_Contracts/search.asp](http://www.maricopa.gov/materials/Awarded_Contracts/search.asp).

**Please note: Price Agreement Purchase Orders (PG documents) may be generated using the information from this list. Use NIGP CODE 5250002, 5250003**

All purchases of product(s) listed on the attached pages of this letter are to be obtained from the listed contractor(s).



## SOLE SOURCE CONTRACT

**SERIAL 09058-SS**

This Contract is entered into this 16th day of September 2009 by and between Maricopa County, a political subdivision of the State of Arizona, and Lyngsoe Systems, a Maryland corporation (Contractor) for the purchase of Lyngsoe Systems' equipment, software support and maintenance.

### 1.0 **TERM:**

- 1.1 This Contract is for a term of five (5) years, beginning on the 1st day of October, 2009 and ending the 30<sup>th</sup> day of September, 2014.
- 1.2 The County may, at its option and with the agreement of the Contractor, extend the term of this Contract for additional terms up to a maximum of five (5) years, (or at the County's sole discretion, extend the contract on a month-to-month basis for a maximum of six (6) months after expiration). The County shall notify the Contractor in writing of its intent to extend the Contract term at least thirty (30) calendar days prior to the expiration of the original contract term, or any additional term thereafter.

### 2.0 **INVOICES AND PAYMENTS:**

- 2.1 The Contractor shall submit two (2) legible copies of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:
  - Company name, address and contact
  - County bill-to name and contact information
  - Contract Serial Number
  - County purchase order number
  - Invoice number and date
  - Payment terms
  - Date(s) of service
  - Contract Item number(s)
  - Description of services
  - Pricing per unit of service
  - Extended price
  - Total Amount Due
- 2.2 Problems regarding billing or invoicing shall be directed to the using agency as listed on the Purchase Order.
- 2.3 Payment shall be made to the Respondent by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer

(EFT) process. After Award the Respondent may fill-out an EFT Enrollment form located on the Maricopa County Department of Finance Website as a fillable PDF document ([www.maricopa.gov/finance/](http://www.maricopa.gov/finance/)).

- 2.4 EFT payments to the routing and account numbers designated by the Respondent will include the details on the specific invoices that the payment covers. The Respondent is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

**3.0 TAX: (SERVICES)**

No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.

**4.0 TAX: (COMMODITIES)**

Tax shall not be levied against labor. Sales/use tax will be determined by County.

**5.0 POST AWARD MEETING:**

The Contractor may be required to attend a post-award meeting with the Using Agency to discuss the terms and conditions of the Contract. This meeting will be coordinated by the Procurement Officer of the Contract.

**6.0 TERMS & CONDITIONS:**

**6.1 INDEMNIFICATION:**

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions or mistakes relating to the performance of this Contract. Contractor's duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting there from, caused by any negligent acts, errors, omissions or mistakes in the performance of this Contract including any person for whose acts, errors, omissions or mistakes Contractor may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of County.

**6.2 INSURANCE REQUIREMENTS:**

Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of B++6. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.

Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.

The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. County shall not be obligated, however, to review such policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.

The insurance policies required by this Contract, except Workers' Compensation, and Errors and Omissions, shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

The policies required hereunder, except Workers' Compensation, and Errors and Omissions, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.

**6.2.1 Commercial General Liability:**

Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

**6.2.2 Automobile Liability:**

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.

**6.2.3 Workers' Compensation:**

Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the

Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.

6.2.4 Certificates of Insurance.

6.2.4.1 Prior to commencing work or services under this Contract, Contractor shall have insurance in effect as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall be made available to the County upon 48 hours notice. **BY SIGNING THE AGREEMENT PAGE THE CONTRACTOR AGREES TO THIS REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF CONTRACT.**

In the event any insurance policy (ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

6.2.5 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

6.3 WARRANTY OF SERVICES:

6.3.1 The Contractor warrants that all services provided hereunder will conform to the requirements of the Contract, including all descriptions, specifications and attachments made a part of this Contract. County's acceptance of services or goods provided by the Contractor shall not relieve the Contractor from its obligations under this warranty.

6.3.2 In addition to its other remedies, County may, at the Contractor's expense, require prompt correction of any services failing to meet the Contractor's warranty herein. Services corrected by the Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished hereunder.

6.4 PROCUREMENT CARD ORDERING:

The County may determine to use a MasterCard Procurement Card, to place and/or make payment for orders under the Contract.

6.5 INTERNET COMMUNICATIONS AND ORDERING:

The County may at its option use the Internet to communicate and to place orders under this Contract.

6.6 NOTICES:

All notices given pursuant to the terms of this Contract shall be addressed to:

For County:

Maricopa County Materials Management Department  
Attn: Chief Procurement Officer  
320 West Lincoln Street  
Phoenix, Arizona 85003

For Contractor:

Lyngsoe Systems  
Attn: Library Solutions  
7470 New Technology Way  
Frederick, MD 21703

**6.7 PRICE ADJUSTMENTS:**

Any requests for reasonable price adjustments must be submitted sixty (60) days prior to the Contract expiration date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

**6.8 TERMINATION FOR CONVENIENCE:**

The County reserves the right to terminate the Contract, in whole or in part at any time, when in the best interests of the County without penalty or recourse. Upon receipt of the written notice, the Contractor shall immediately stop all work, as directed in the notice, notify all subcontractors of the effective date of the termination and minimize all further costs to the County. In the event of termination under this paragraph, all documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County upon demand. The Contractor shall be entitled to receive just and equitable compensation for work in progress, work completed and materials accepted before the effective date of the termination.

**6.9 TERMINATION FOR DEFAULT:**

6.9.1 In addition to the rights reserved in the Contract, the County may terminate the Contract in whole or in part due to the failure of the Contractor to comply with any term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. The Procurement Officer shall provide written notice of the termination and the reasons for it to the Contractor.

6.9.2 Upon termination under this paragraph, all goods, materials, documents, data and reports prepared by the Contractor under the Contract shall become the property of and be delivered to the County on demand.

6.9.3 The County may, upon termination of this Contract, procure, on terms and in the manner that it deems appropriate, materials or services to replace those under this Contract. The Contractor shall be liable to the County for any excess costs incurred by the County in procuring materials or services in substitution for those due from the Contractor.

6.9.4 The Contractor shall continue to perform, in accordance with the requirements of the Contract, up to the date of termination, as directed in the termination notice.

**6.10 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:**

Notice is given that pursuant to A.R.S. §38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S §38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

**6.11 OFFSET FOR DAMAGES:**

6.11.1 In addition to all other remedies at law or equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

**6.12 ADDITIONS/DELETIONS OF SERVICE:**

The County reserves the right to add and/or delete products and/or services provided under this Contract. If a requirement is deleted, payment to the Contractor will be reduced proportionately to the amount of service reduced in accordance with the proposal price. If additional services and/or products are required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

**6.13 RELATIONSHIPS:**

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the County and the Contractor.

**6.14 SUBCONTRACTING:**

As this is a sole source contract, the Contractor may not assign this Contract or subcontract to another party for performance of the terms and conditions hereof.

**6.15 AMENDMENTS:**

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County Materials Management shall be responsible for approving all amendments for County.

**6.16 RETENTION OF RECORDS:**

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. The County, County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse County for the services not so adequately supported and documented.

**6.17 AUDIT DISALLOWANCES:**

If at any time, County determines that a cost for which payment has been made is a disallowed cost, such as overpayment, County shall notify the Contractor in writing of the disallowance. County shall also state the means of correction, which may be but shall not be limited to adjustment of any future claim submitted by the Contractor by the amount of the disallowance, or to require repayment of the disallowed amount by the Contractor.

**6.18 ALTERNATIVE DISPUTE RESOLUTION:**

6.18.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve

as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

6.18.1.1 Render a decision;

6.18.1.2 Notify the parties that the exhibits are available for retrieval; and

6.18.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

6.18.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.

6.18.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

**6.19 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:**

6.19.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system. I-9 forms are available for download at [USCIS.GOV](https://uscis.gov).

6.19.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

**6.20 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:**

6.20.1 By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract.

6.20.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of



the Contract for default, and suspension and/or department of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

**6.21 AVAILABILITY OF FUNDS:**

- 6.21.1 The provisions of this Contract relating to payment for services shall become effective when funds assigned for the purpose of compensating the Contractor as herein provided are actually available to County for disbursement. The Director shall be the sole judge and authority in determining the availability of funds under this Contract. County shall keep the Contractor fully informed as to the availability of funds.
- 6.21.2 If any action is taken by any state agency, Federal department or any other agency or instrumentality to suspend, decrease, or terminate its fiscal obligations under, or in connection with, this Contract, County may amend, suspend, decrease, or terminate its obligations under, or in connection with, this Contract. In the event of termination, County shall be liable for payment only for services rendered prior to the effective date of the termination, provided that such services are performed in accordance with the provisions of this Contract. County shall give written notice of the effective date of any suspension, amendment, or termination under this Section, at least ten (10) days in advance.

**6.22 CONTRACT COMPLIANCE MONITORING**

County shall monitor the Contractor's compliance with, and performance under, the terms and conditions of this Contract. The Contractor shall make available for inspection and/or copying by County, all records and accounts relating to the work performed or the services provided under this Contract.

- 6.22.1 If any of the services do not conform with Contract requirements, County may require the Contractor to perform the services again in conformity with Contract requirements, at an increase in Contract amount. When the defects in services cannot be corrected by re-performance, County may:
  - 6.22.1.1 Require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements; and
  - 6.22.1.2 Reduce the Contract price to reflect the reduced value of the services performed.
- 6.22.2 If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with Contract requirements, County may:
  - 6.22.2.1 By Contract or otherwise, perform the services and charge to the Contractor any cost incurred by County that is directly related to the performance of such service; or
  - 6.22.2.2 Terminate the Contract for default.

**6.23 STRICT COMPLIANCE**

Acceptance by County of performance not in strict compliance with the terms hereof shall not be deemed to waive the requirement of strict compliance for all future performance obligations. All changes in performance obligations under this Contract must be in writing.

**6.24 SEVERABILITY:**

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

**6.25 RIGHTS IN DATA:**

The County shall own have the use of all data and reports resulting from this Contract without additional cost or other restriction except as provided by law. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

**6.26 INTEGRATION:**

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, proposals, communications, understandings, representations, or agreements, whether oral or written, express or implied.

**6.27 GOVERNING LAW:**

This Contract shall be governed by the laws of the state of Arizona. Venue for any actions or lawsuits involving this Contract will be in Maricopa County Superior Court or in the United States County Court for the County of Arizona, sitting in Phoenix, Arizona.

**6.28 CONTRACTOR LICENSE REQUIREMENT:**

6.28.1 The Respondent shall procure all permits, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his business. The Respondent shall keep fully informed of existing and future Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same.

6.28.2 Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to possess the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1502 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

**6.29 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

6.29.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

6.29.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

6.29.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- 6.29.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- 6.29.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.
- 6.29.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.
- 6.29.3 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

**6.30 SOFTWARE**

For purposes of this Agreement the term "LYNGSOE SYSTEMS Software" means the software supported, developed or owned or sublicensed by Contractor as delivered to Maricopa County or as installed by Contractor on the equipment under this Agreement. Title to the LYNGSOE SYSTEMS Software shall remain with the Contractor. Maricopa County is granted a perpetual, nonexclusive, nontransferable, single site, single application license to use the LYNGSOE SYSTEMS Software, in object code-only form, and documentation associated with it for Maricopa County's own internal use, and to make one backup and archival copy, provided that Contractor's copyright notice and other proprietary markings are reproduced in such copies. Each copy of the LYNGSOE SYSTEMS Software provided under this license may be used only (a) at the worksite designated in the Project Agreement, (b) on the equipment on which the LYNGSOE SYSTEMS Software is installed or on other equipment provided by Contractor in connection with this contract, and (c) for purposes for which the software is delivered to Maricopa County, as approved by Contractor in writing. Use of the LYNGSOE SYSTEMS Software in a network environment is authorized under the license; however, no other use at other sites is authorized unless specifically agreed to in writing signed by Contractor. The software license granted in this Agreement does not include a license to source code. Maricopa County shall not use, copy, rent, lease, sell, modify, prepare derivative works, decompile, disassemble, otherwise reverse engineer, or transfer the LYNGSOE SYSTEMS Software except as expressly permitted in this Agreement. This license shall continue as long as Maricopa County complies with the terms and conditions of this Agreement. If Maricopa County violates these terms and conditions and fails to remedy said violations to the satisfaction of Contractor within fifteen (15) days after notice by Contractor, this software license may be terminated immediately thereafter by Contractor. Upon termination, Maricopa County shall return all copies of the LYNGSOE SYSTEMS Software and all documentation pertaining to such LYNGSOE SYSTEMS Software to Contractor. In the event of termination for such breach, Contractor reserves the right to pursue any rights and remedies available under law. Maricopa County understands and agrees that the LYNGSOE SYSTEMS Software and all documentation related thereto constitute the valuable technology, know-how and trade secrets of Contractor. Maricopa County agrees during the term of this Agreement and thereafter to hold the LYNGSOE SYSTEMS Software, including any copies of the LYNGSOE SYSTEMS Software and any documentation associated with it, in confidence and to not permit any person or entity to obtain access to it except as required for Maricopa County's own internal use. The obligations under this paragraph shall survive the termination of this Agreement.

**6.31 ORDER OF PRECEDENCE:**

In the event of a conflict in the provisions of this Contract and Contractor's license agreement, the terms of this Contract shall prevail, except the Contractor's license agreement shall prevail where it pertains to the use of the Contractor's product.

**6.32 INCORPORATION OF DOCUMENTS:**

The following are to be attached to and made part of this Contract.

- 6.32.1 Exhibit A, Pricing

- 6.32.2 Exhibit B, Scope of Services
- 6.32.3 Exhibit C, Return Goods Form
- 6.32.4 Exhibit D, Contractor Travel Policy

**IN WITNESS WHEREOF**, this Contract is executed on the date set forth above.

**CONTRACTOR**

  
\_\_\_\_\_  
AUTHORIZED SIGNATURE

Cory L. McLaughlin Director  
\_\_\_\_\_  
PRINTED NAME AND TITLE

4612 WARDEN Drive Frederick MD 21703  
\_\_\_\_\_  
ADDRESS

10/22/09  
\_\_\_\_\_  
DATE

**MARICOPA COUNTY**

  
\_\_\_\_\_  
CHAIRMAN, BOARD OF SUPERVISORS

DEC 01 2009  
\_\_\_\_\_  
DATE

**ATTESTED:**

  
\_\_\_\_\_  
CLERK OF THE BOARD 090609

DEC 01 2009  
\_\_\_\_\_  
DATE

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
LEGAL COUNSEL

Nov 1 2009  
\_\_\_\_\_  
DATE

## EXHIBIT A PRICING

SERIAL 09058-SS

NIGP CODE: 5250100

RESPONDENT NAME:

Lyngsoe Systems

VENDOR NUMBER :

W000016221

ADDRESS:

7470 New Technology Way

Frederick, MD 21703

P.O. ADDRESS:

TELEPHONE NUMBER:

240 674 8482

FACSIMILY NUMBER:

301 360 0911

WEB SITE:

www.LyngsoeSystems.com

REPRESENTATIVE:

Laura Suman

REPRESENTATIVE E-MAIL:

lsu@lyngsoesystems.com

YES	NO	REBATE
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WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT:

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

WILL OFFER REBATE (CASH OR CREDIT) FOR UTILIZING PROCUREMENT CARD:

<input type="checkbox"/>	<input checked="" type="checkbox"/>	%
--------------------------	-------------------------------------	---

(Payment shall be made within 48 hours of utilizing the Purchasing Card)

PAYMENT TERMS: RESPONDENT IS REQUIRED TO PICK ONE OF THE FOLLOWING.

FAILURE TO CHOOSE PAYMENT TERMS WILL RESULT IN A DEFAULT TO NET 30 DAYS.

<input type="checkbox"/> NET 10 DAYS	<input type="checkbox"/> NET 45 DAYS	<input type="checkbox"/> 1% 10 DAYS NET 30 DAYS
<input type="checkbox"/> NET 15 DAYS	<input type="checkbox"/> NET 60 DAYS	<input type="checkbox"/> 2% 30 DAYS NET 31 DAYS
<input type="checkbox"/> NET 20 DAYS	<input type="checkbox"/> NET 90 DAYS	<input type="checkbox"/> 1% 30 DAYS NET 31 DAYS
<input checked="" type="checkbox"/> NET 30 DAYS	<input type="checkbox"/> 2% 10 DAYS NET 30 DAYS	<input type="checkbox"/> 5% 30 DAYS NET 31 DAYS

### Year 1 – 1st October 2009 – 30<sup>th</sup> September 2010

Hotline Service	10,000 USD
Maintenance	8,029 USD
Extended Warranty	6,667 USD
<b>Price</b>	<b>24,696 USD</b>

### Year 2- 1st October 2010 – 30<sup>th</sup> September 2011

Hotline Service	10,309 USD
Maintenance	8,278 USD
Extended Warranty	7,092 USD
<b>Price</b>	<b>25,679 USD</b>

### Year 3 – 1st October 2011 – 30<sup>th</sup> September 2012

Hotline Service	10,628 USD
Maintenance	8,534 USD
Extended Warranty	7,545 USD
<b>Price</b>	<b>26,707 USD</b>

### Year 4 – 1st October 2012 – 30<sup>th</sup> September 2013

Hotline Service	10,957 USD
Maintenance	8,798 USD
Extended Warranty	7,545 USD
<b>Price</b>	<b>27,300 USD</b>

**Year 5 – 1st October 2013 – 30<sup>th</sup> September 2014**

Hotline Service	11,296 USD
Maintenance	9,070 USD
Extended Warranty	8,539 USD
<b>Price</b>	<b>28,905 USD</b>

**Totals**

<b>Price for 5 years combined</b>	<b>133,287 USD</b>
<b>Price for 5 years with discount applied</b>	<b>125,035 USD</b>

<b><u>HOURLY RATES (USD)</u></b>	<b>Normal hours</b>	<b>Over-time hours</b>	<b>Travel hours</b>	<b>Holiday hours</b>
<b>Service engineer</b>	165.00	247.50	165.00	330.00
<b>Software engineer</b>	171.00	256.50	171.00	342.00

**Normal hours/overtime**

Normal hours are from 08.00 am to 4.30 pm

Overtime is after 4.30 pm on weekdays, Saturdays/Sundays and holidays according to USA calendar.

**Travel Expenses**

Car	Subject to Exhibit D
Other expenses	Subject to Exhibit D

**Hotel and meal allowances**

Hotel	Subject to Exhibit D
Allowances	Subject to Exhibit D

Substance allowances where work incl. transportation time is terminated after 6 hours it is charged at 45% of the tariff in force.

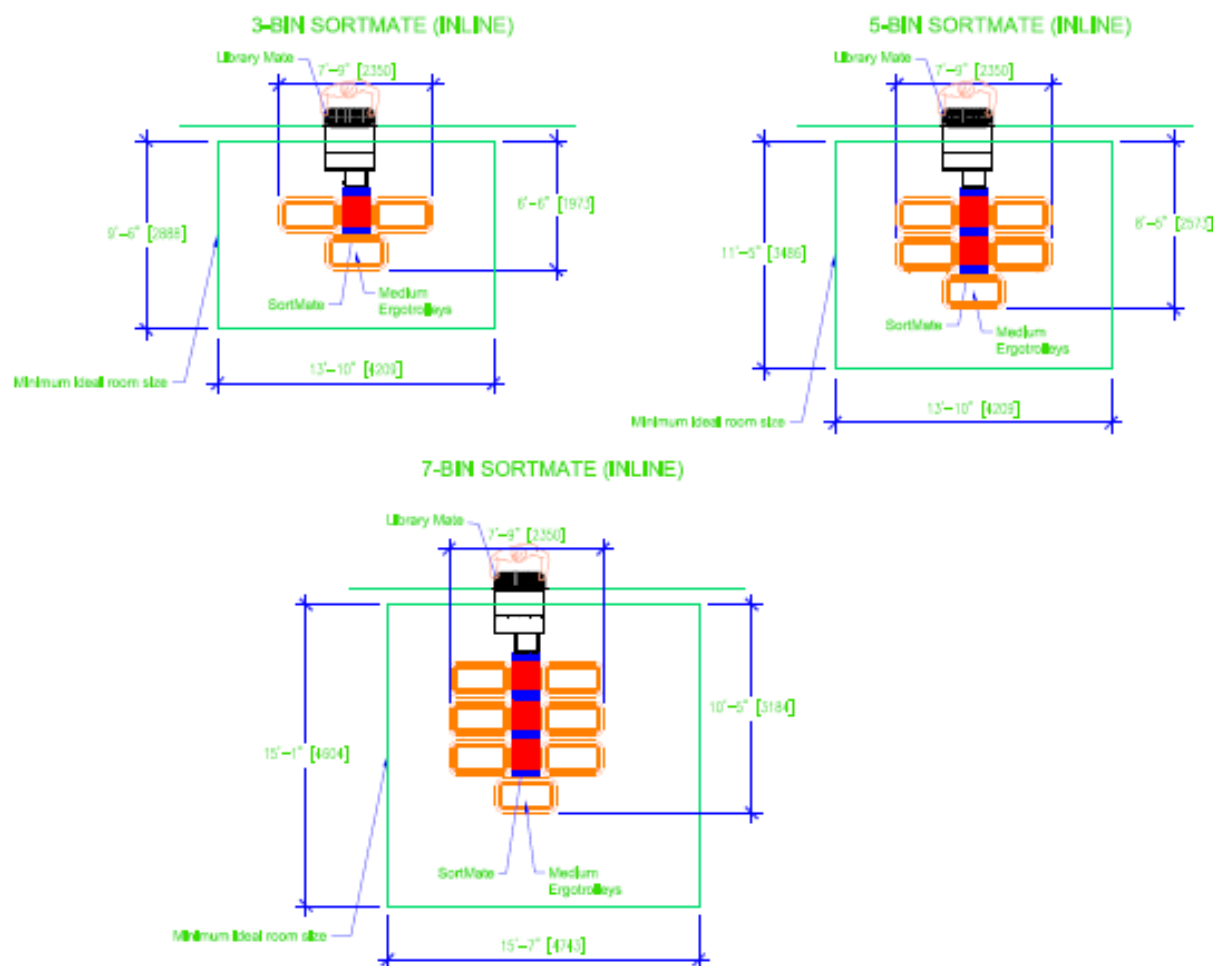
Maricopa Contract Pricing  
9/30/2009  
RCJ

	Installation Time	Average Project Duration	Price				
			2010	2011	2012	2013	2014
3 Bin System In-line	1 1/2 weeks	26 weeks	\$151,848	\$156,544	\$161,386	\$166,377	\$171,523
5 Bin System In-line	2 weeks	26 weeks	\$158,155	\$163,046	\$168,089	\$173,288	\$178,647
7 Bin System In-line	2 weeks	26 weeks	\$163,366	\$168,419	\$173,627	\$178,997	\$184,533
Extra Divert	1 weeks	-	\$6,307	\$6,502	\$6,703	\$6,910	\$7,124
24/7 LM and Merge (Bought Separate of Main System)	2 weeks	26 weeks	\$148,617	\$153,213	\$157,952	\$162,837	\$167,873
24/7 LM and Merge (Bought <i>with</i> Main System)	1 week	26 weeks	\$95,524	\$98,478	\$101,524	\$104,664	\$107,901
Medium Ergo Trolley	-	4 to 6 Weeks	\$1,200	\$1,237	\$1,275	\$1,315	\$1,355

## Maricopa County Spare Part List

Part Number	Description	Quantity	Price USD
<b>MiniSorter</b>			
465B125	POP UP UNIT COMPLETE	1	\$2,499.00
174A700	ACTUATOR	1	\$474.67
174A701	DRIVING BELT	1	\$12.10
174A699	MOTOR	1	\$439.40
174A703	DRUM MOTOR	1	\$586.25
408B367.0200	PEC	1	\$84.05
174A719	SAFTEY MAGNET	1	\$20.18
174A718	SAFTEY SENSOR	1	\$71.20
<b>Library Mate</b>			
174A614	TOUCHSCREEN	1	\$1,199.14
172A488	PEC	1	\$34.25
174A140	PRINTER	1	\$742.05
132A070	REFLECTIVE TAPE	1	\$32.99
452B784	DRIVE ROLLER	1	\$656.32
174A270	EM AND COILS	1	\$2,944.96
<b>Staff Induction</b>			
174A706	SICK SCANNER	1	\$2,783.24
<b>Conveyor</b>			
452B784	DRIVE ROLLER	1	\$656.22
174A154	PEC	1	\$112.33
173A989	MOTOR CONTROL UNIT	1	\$116.23
<b>Electrical Components</b>			
175A039	Fq Inverter Mini Sorter US Model	1	\$307.02
175A040	Ether Cat Coupler module	1	\$316.54
175A041	PLC	1	\$892.50
175A042	EtherCat Extension module	1	\$92.82
175A043	TwinSAFE Slave Input module	1	\$272.51
175A046	TwinSAFE Slave Output module	1	\$309.40
175A047	TwinSAFE Master Output module	1	\$395.08
175A044	K-Bus 8 Output module	1	\$76.16
175A045	K-Bus Motor Driver 2 diverters	1	\$324.87
175A048	K-Bus termination terminal	1	\$16.66
175A049	K-Bus 16 Input module	1	\$157.08
175A052	Fuse Holder for ATQR Fuses	1	\$87.35
175A053	Circuit breaker 13A	1	\$11.90
175A054	2-Pol relay 24VDC	1	\$7.85
141A978	Power Supply 24VDC 10 A	1	\$90.73
175A056	Relay 24VDC used for E-Stop	1	\$77.35
175A057	Optocoupler	1	\$26.42



[illegible]

## EXHIBIT B

### SCOPE OF SERVICES

#### 1.0 Introduction

This services agreement covers the after sales services and conditions agreed between Contractor and Maricopa County.

#### 2.0 Equipment

The site-specific equipment covered in this agreement is as set forth below:

##### Site 1

Maricopa County – Gilbert Branch, 775 North Greenfield Road, Gilbert, AZ 85234 (hereinafter “Site1”)  
Handover Completed 10/12/2007

Equipment included in this site:

- 3 x MiniSorter Sections
- 1 x Transfer Conveyor
- 1 x 24/7 Library Mate Check In
- 18 x ErgoTrolleys

##### Site 2

Maricopa County – Queen Creek Branch, 21802 S Ellsworth Road, Queen Creek, AZ 85242 (hereinafter “Site2”)  
Handover Completed 10/1/2008

Equipment included in this site:

- 2 x MiniSorter Sections
- 1 x Staff Induction
- 3 x Transfer Conveyor
- 1 x 24/7 Library Mate Check In
- 18 x ErgoTrolleys

#### 3.0 Hotline Service

Hotline is used when assistance from an experienced LYNGSOE SYSTEMS engineer is required. Hotline Service consists of 2 basic services:

- **Hotline** Access to LYNGSOE SYSTEMS Hotline Call Center
- **Man-On-Site:** Co-ordination of an experienced technician to come to the Site

Note: If Hotline is contacted, a Hotline Report of this call is sent to the Customer after the issue is resolved.

##### Hotline

If a Customer is unable to remedy a problem that renders the system not functional, the LYNGSOE SYSTEMS Hotline can be contacted.

Within 15 minutes of receiving the call, Hotline engineers will start troubleshooting the system and supporting the Customer. This will be done by telephone and VPN connection.

Establishing a VPN connection to the Customer will be done prior to initial equipment installation but according to LYNGSOE SYSTEMS specifications outlined in Appendix 3.

Hotline can be used by the Customer for the period stated in the agreement. Hotline is not available on 24<sup>th</sup>, 25<sup>th</sup> and 31<sup>st</sup> December and 1<sup>st</sup> January unless other arrangements are made.

### **Man-On-Site (MOS)**

In the case where problems cannot be solved remotely or if the Customer for other reasons requests a technician to come on site, LYNGSOE SYSTEMS will send a technician to site within the shortest possible reasonable response time, subject to the restrictions set forth herein and in article 3.2.1, below.

For a Man-On-Site visit the system must be made fully available for the technician.

Man-On-Site costs are invoiced separately according to the rates in Appendix 1.

The Customer has to supply a purchase order number when ordering Man-On-Site.

### **Dispatching a technician**

If a Man-On-Site is required and the decision to do this is made within LYNGSOE SYSTEMS normal opening hours (8.00am - 4.30pm Monday through Friday), the technician will commence his journey immediately. Outside of normal opening hours a technician will commence their journey before 12 noon the following weekday.

Any special dispatching times can be arranged and are shown in the price sheet.

## **4.0 Maintenance**

Planned service visits to the Customer are part of good preventive maintenance.

### **Service Visits**

Service visits are carried out by LYNGSOE SYSTEMS technicians and include the following main points:

- Inspection and health check
- Adjustment and lubrication
- Replacement of wearing parts
- System optimisation
- Check of controls
- Analysis of log files
- Review of the spare parts inventory
- Training of the Customer's staff (option)

The number of agreed annual service visits and the number of hours per visit are itemised in the price sheet.

Unless other arrangements are made, service visits are scheduled according to the LYNGSOE SYSTEMS Service Calendar with quarterly visits. The actual date and time will be agreed upon individually with the Customer.

The Customer is required to make 1 member of staff available during the entire service visit for knowledge transfer and education. In order for us to carry out the most effective service visits, we require that the Customer maintain spare parts on site.

If the service visit is extended, this will be invoiced separately.

All service visits are concluded with a service visit report sent to the Customer.

## **5.0 Spare Parts Service**

In order to ensure maximum uptime on the system it is important that spare parts are available on site.

## **Spare parts stock**

A spare parts stock is insurance and will include parts that are critical to the operation of the system. LYNCSOE SYSTEMS recommends that the Customer invest in a spare parts starter kit for each product they purchase. While we have a typical standard package the contents of the starter kit can be tailored to the Customer.

Price and contents of a standard starter kit will be itemised in the price sheet. Consumption of spare parts is not included in this agreement and will be invoiced separately.

## **Repair service**

LYNCSOE SYSTEMS Repair Service coordinates repair of defective parts and components.

The Customer must send defective parts to LYNCSOE SYSTEMS with a completed Return Goods Form (Appendix 2) and the repair work will start when LYNCSOE SYSTEMS receives the Return Goods (define this term). While the duration of the repair work will vary, but we aim to ship repaired goods to the Customer within 30 days of receiving them with standard shipping.

## **Claims**

Parts warranty for the first year is covered by the main project. Gilbert branch contract number is 10712 and Queen Creek branch contract number is 17640.

### **6.0 Extended Parts Warranty**

This will ensure there are no surprise bills for critical parts that fail in the years past year one. LYNCSOE SYSTEMS will provide the annual price for extending the initial parts warranty covered in Article 15 of LYNCSOE SYSTEMS Terms and Conditions.

Claims related to warranty are handled as described in section 5.2 Repair service.

### **7.0 Training**

LYNCSOE SYSTEMS Training packages will ensure all Customer operators and maintenance personnel have the skills needed to efficiently keep the system in running order.

LYNCSOE SYSTEMS will provide options for extra training sessions after the system has been installed for approximately 2-4 weeks. This will give the Customer time to have real life experiences with the system.

### **8.0 Limitation of liability**

The liability of Contractor, its agents, employee, subcontractors and suppliers with respect to any and all claims arising out of the performance or non-performance of obligations under the Contract Documents, or the design, manufacture, sale, delivery, installation or use of equipment or materials or the condition of other services hereunder irrespective of the theory upon which any claim may be based, including, without limitation, breach of the Contract Documents, breach of warranty or tort (including negligence), indemnity, strict liability or otherwise (i) shall in no event include consequential, indirect, special or similar damages including, but not limited to, loss of profits or revenue, or loss of business, and Owner hereby irrevocably waives any right it may have to any damages in excess of actual and incidental, and (ii) shall in no event exceed in the aggregate 10% of the Contract Sum. This limitation of liability shall prevail over any conflicting or inconsistent provisions contained in the Contract Documents except where such conflicting or inconsistent provisions provide a more restrictive remedy.

### **9.0 Force Majeure**

Neither Owner nor Contractor shall be liable for any failure to perform any of their respective obligations under the Contract Documents when such failure is caused by or results from (1) strike or other work stoppages blacklisting, boycott, or sanctions, however incurred; (2) acts of God, public enemies, authority of law (including the withdrawal of any governmental authorization required to carry out the terms of the Contract Documents), embargo, quarantine, riot insurrection, a declared or undeclared war, state of war or belligerency or hazard or danger incidental thereto; or (3) the inability of any person to obtain any equipment, machinery, or material required for the Work, or the inability to make the Work Site available to Contractor in accordance with the Contract Documents, through no fault of Owner or Contractor.

## Return Goods Form Sample

<b>Item(s) are returned by:</b>	<input type="checkbox"/> Customer <input type="checkbox"/> Commissioning engineer/Supervisor <input type="checkbox"/> Service engineer <input type="checkbox"/> Others		
<b>Customer name:</b>		<b>Miscellaneous Project number:</b>	
<b>Address:</b>			
<b>Shipment address:</b>			
<b>Contact person Shipper:</b>			
<b>Contact person LYNGSOE SYSTEMS</b>			
<b>Delivery</b>	<input type="checkbox"/> Urgent <input type="checkbox"/> Normal delivery		

Items are returned because of:	<input type="checkbox"/> Claim – errors/omissions of the item(s)	State claim no, if any
	<input type="checkbox"/> Repair/exchange of item(s)	
	<input type="checkbox"/> Faulty order or faulty dispatch	State LYGSOE SYSTEMS invoice no:
	<input type="checkbox"/> Other	

<b>State cause/description of error:</b> (state serial number, type number and error codes, if any)	
<b>Possible item number:</b>	
<b>Name:</b>	
<b>Qty.:</b>	
<b>Enclosures, if any:</b>	

<b>Date of shipment:</b>	
<b>Expected arrival at Lyngsoe Systems</b>	
<b>Shipping information, if any</b>	
<b>The appendix conc. returned items is faxed to :</b> <b>301 360 0911</b> <b>Please enclose copy of the covering letter conc. returned items to the dispatch</b>	<b>Item are sent to:</b>  Lyngsoe Systems Library Solutions  7470 New Technology Way  Frederick, MD 21703  ATTN: LAURA SUMAN

## **EXHIBIT D**

### **CONTRACTOR TRAVEL POLICY**

#### **Purpose**

This policy is established in order to maintain a uniform definition of allowable and allocable costs acceptable to Maricopa County / Special Counties (hereinafter "the County"). It is recognized that there will be times when it is necessary for contractors to travel to the County in order to perform services under a contract. Use of this policy should insure the County does not become liable for unwarranted or excessive travel expense invoices from contractors.

- A. All contract-related travel shall be prior-approved by the County.
- B. Travel, lodging, and per diem expenses incurred in performance of County contracts shall be reimbursed based on current U.S. General Services Administration (GSA) domestic per diem rates for Phoenix, Arizona. Contractors must access the following internet site to determine rates:  
  
[http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA\\_BASIC](http://www.gsa.gov/Portal/gsa/ep/contentView.do?contentId=17943&contentType=GSA_BASIC)
- C. Commercial air travel shall be scheduled at the lowest available and/or most direct flight airfare rate at the time of any approved contract-related travel. A fare other than the lowest rate may be used only when seats are not available at the lowest fare or air travel at a higher rate will result in an overall cost savings to the County. Business class airfare is allowed only when there is no lower fare available to meet County needs.
- D. Rental vehicles may only be used if such use would result in an overall reduction in the total cost of the trip, not for the personal convenience of the traveler.
  - 1. Purchase of comprehensive and collision liability insurance shall be at the expense of the contractor. The County will not reimburse the contractor if the contractor chooses to purchase these coverages.
  - 2. Rental vehicles are restricted to sub-compact, compact, or mid-size sedans unless a larger vehicle is necessary for cost efficiency due to the number of travelers. (NOTE: contractors shall obtain written approval from the County prior to rental of a larger vehicle.)
  - 3. The County will reimburse the contractor for parking expenses if free, public parking is not available within a reasonable distance of the place of County business.
  - 4. The County will reimburse for the lowest rate, long-term uncovered (e.g. covered or enclosed parking will not be reimbursed) airport parking only if it is less expensive than shuttle service to and from the airport.
- E. The contractor is responsible for any other miscellaneous personal expenses, as they are included in the contractor's lodging and per diem expenses.
- F. The County will reimburse any allowable and allocable business expense, excluding health club fees and business class air fares, except as indicated in paragraph "C" above.
- G. Travel and per diem expenses shall be capped at (TO BE PROPOSED) % of project price unless otherwise specified in individual contracts.

**LYNGSOE SYSTEMS INC., 7470 NEW TECHNOLOGY WAY SUITE P, FREDERICK, MD 21703**

Terms:	NET 30
Vendor Number:	W000016221 X
Telephone Number:	301/360-0910
Fax Number:	301/360-0911
Contact Person:	Torben Madsen
E-mail Address:	<a href="mailto:info@lyngsoesystems.com">info@lyngsoesystems.com</a>
Certificates of Insurance	Required
Contract Period:	To cover the period ending <b>September 30, 2014.</b>